REMARKS

This is a response to the final Office Action dated September 4, 2008. Claims 8, 11, 16 and 17 are currently pending in this application. For at least the following reasons, Applicants respectfully submit that each of the presently pending claims is in condition for allowance.

Claim Rejections Under 35 U.S.C. § 102

Claims 8, 11, and 16-17 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,160,200 to Ehrnsperger et al. ("*Ehrnsperger*"). Applicants respectfully traverse. Applicants submit that in order for a reference to anticipate a claim, the reference must disclose each and every limitation of the claimed invention. *Dana Corp. v. Am. Axle & Mfg., Inc.*, 61 USPQ 2d 1609 (Fed. Cir. 2002).

Claim 8 presently recites a "a support layer substantially entirely and directly coating said skin-protective ingredient containing layer for retaining said skin-protective ingredient on said one surface of said top sheet and isolating said skin-protective ingredient containing layer from the skin of the wearer, said support layer being formed of polyethylene oxide having a molecular weight of from 700 to 1,000 and having a melting point from 35°C to 40°C." The Examiner asserts that *Ehrnsperger* discloses the use of a support layer as recited in claim 8.

Particularly, Applicants point out that the claim calls for a support layer with a melting point from 35°C to 40°C, and that *Ehrnsperger* discloses a soluble material 66 with a *temperature threshold* of 35°C. The Examiner's cited passage reads:

> The soluble material 66 may also be temperature sensitive (e.g., *more soluble at either low or high temperatures*). As such, the soluble material 66 may have a temperature threshold. The "temperature threshold" of a soluble material is the temperature at which the material changes from insoluble (or a solid) to soluble (or at least partially liquid) or vice-versa. For example, in preferred embodiments the soluble material 66 may be substantially insoluble (i.e., solid) in cold water (e.g., below 35 degrees C.), but soluble (i.e., at least partially liquid) in warmer

> water. Thus, the temperature threshold of that material is 35 degrees C (emphasis added)

(*Ehrnsperger*, col. 13, lines 1-9).

Applicants submit that a material's solubility and its melting point are different properties. It is clear that claim 8 calls for a support member with a *melting point* of from 35°C to 40°C, that is that the material changes state from a solid to a liquid in that range. Conversely, *Ehrnsperger* only discusses solubility and not melting point. This difference can be more readily appreciated when column 13 is read in context. When this is done it is clear that *Ehrnsperger* only discusses solubility and dissolution and not a change in state. The dissolution discussed in the prior art can be changed by the use of varying temperatures as discussed above (col. 13, lines 5-10). Furthermore, the dissolution can also be affected by the utilization of enzyme activity by effecting a change in pH (col. 13, lines 24-25). The prior art clearly states that "the dissolution of soluble material 66 may be triggered by enzyme activity. For example, an enzyme present in the article may effect a pH change in conjunction with hydrolysis of bodily waste which in turn promotes dissolution of the soluble member 66 (e.g., a mixture of urease and urea liberate ammonia, resulting in a pH increase)" (col. 13, lines 25-30).

Furthermore, claim 8 recites "a support layer substantially entirely and directly coating said skin-protective ingredient containing layer for retaining said skin-protective ingredient on said top sheet and isolating said skin-protective ingredient containing layer from the skin of the wearer, said support layer being formed of polyethylene oxide." The Examiner incorrectly identifies a body adhering composition 80 that may be formed of polyethylene oxide in *Ehrnsperger* as the support layer of claim 8. However, the body adhering composition does not retain a skin-protective ingredient or isolate the skin-protective ingredient from the skin of the wearer. Rather, the body adhering composition only serves to "hold the waste passage member 60 close to the wearer's skin" (col. 14, lines 24-27). This difference can be further appreciated in view of the fact that the support layer of claim 8 is required to have a "melting point from 35°C to 40°C," so as to release the skin-protective ingredients, while the body adhering composition of *Ehrnsperger* has no required melting point.

Accordingly, because the prior art does not disclose each and every limitation of the claimed invention, Applicants respectfully request that the rejections of claims 8, 11, 16 and 17 under 35 U.S.C. § 102(e) be withdrawn.

CONCLUSION

It is respectfully submitted that each of the presently pending claims are in condition for allowance and notification to that effect is requested. The Examiner is invited to contact the Applicants' representative at the below-listed telephone number if it is believed that the prosecution of this application may be assisted thereby.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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